

REQUIRES MONITORING
OR STAFF ACTION NO

COMMISSION DIRECTIVE

ADMINISTRATIVE MATTERS	<input type="checkbox"/>	DATE	<u>April 4, 2006</u>
MOTOR CARRIER MATTERS	<input type="checkbox"/>	DOCKET NO.	<u>2004-219-E - -</u>
UTILITIES MATTERS	<input checked="" type="checkbox"/>	ORDER NO.	<u>-</u>

SUBJECT:

DOCKET NO. 2004-219-E – Progress Energy Carolinas, Incorporated – Petition to Terminate Service – Discuss with the Commission a Motion to Continue Date of Hearing and Extension of Time for Filing of Pleadings Filed by Beatrice Weaver; Discuss with the Commission a Motion to Close Docket Filed by Len S. Anthony, Esquire, on Behalf of Progress Energy Carolinas, Incorporated.

COMMISSION ACTION:

This matter comes before us on the motion of Beatrice Weaver to again continue a hearing on this matter, currently scheduled to be held April 13, 2006. This is the fifth request for a continuance from Respondent. For the following reasons, I move that Mrs. Weaver's motion be denied, and that this matter be dismissed without prejudice.

This docket was created in August of 2004. The Commission scheduled a hearing on the matter for December 9, 2004. Citing medical reasons, Mrs. Weaver moved for a three-month continuance of the hearing. This Commission granted her motion and rescheduled the hearing for March 10, 2005. Subsequently, Mrs. Weaver again moved the Commission for a continuance based upon medical reasons. The Commission again ordered that the hearing be continued, and that the Commission staff reschedule the hearing date. The Commission rescheduled the hearing for December 14, 2005.

By motion dated October 10, 2005, Ms. Weaver requested another continuance, and by letter dated October 13, 2005, Progress Energy requested withdrawal of its petition to terminate service. Mrs. Weaver, however, informed the Commission of her intention to continue prosecuting her counterclaims against Progress Energy. The Commission rescheduled the hearing again for January 12, 2006. On January 10, 2006, Mrs. Weaver again requested that the hearing be postponed, and the Commission again accommodated her request by rescheduling the matter for April 13, 2006.

On February 8, 2006, Mrs. Weaver again moved for a continuance, citing the anticipated absence of unnamed material witnesses for observances of Passover and/or Easter. In an Order entered February 27, 2006, the Commission denied Mrs. Weaver's motion for a continuance of the April 13, 2006 hearing. Mrs. Weaver renewed her motion for continuance through several filings thereafter, again raising medical grounds for the request. In her Memorandum in Support of Motion to Continue Date of Hearing dated March 10, 2006, Mrs. Weaver revealed that, within days of filing her February 8, 2006, motion for continuance, and with full knowledge that her hearing was scheduled for April 13, 2006, she voluntarily agreed to a date of April 12, 2006 for a surgical procedure that would be incompatible with attendance at the April 13, 2006, hearing, and that would again make her unavailable for some period of time thereafter.

Mrs. Weaver now requests that the hearing be continued until after the end of May, 2006.

The hearings on this matter have been rescheduled numerous times. As early as December 2004, the Commission had informed the parties by order that "that this Commission, absent the most exigent circumstances, will not grant any further continuances in this Docket." That caveat was repeated in the Commission's order of March 14, 2005. In its subsequent order of December 16, 2005, and in spite of that

repeated warning, the Commission even attempted to resolve Ms. Weaver's on-going inability to attend a hearing by arranging for her participation by video conference hook-up. In a response dated January 6, 2006, Ms. Weaver nevertheless declared an inability to attend the again re-scheduled hearing. In fact, she informed the Commission that two letters from the Commission dated December 21, 2006 were withheld from her because of her illness, and not delivered into her hands until January 5, 2006.

The Commission and its staff have spent a great deal of time dealing with Mrs. Weaver's repeated eleventh-hour requests for continuances. While the Commission has attempted to deal in good faith with each and every request by Mrs. Weaver in this case, it has become apparent that Mrs. Weaver is currently either unable or unwilling to go forward and prosecute her case to its conclusion. Indeed, by her own admission, necessary documents and notices involving the case have been withheld from her due to her continuing illness. This is particularly significant due to the fact that Ms. Weaver has appeared *pro se* in this action, and is therefore served individually with documents in the case.

The Commission may, pursuant to S.C. Code Ann. Regs.103-862, grant or deny requests for continuances, and may also, pursuant to S.C. Code Ann. Regs.103-868, dismiss this matter, with or without prejudice, for failure to attend a scheduled hearing. Accordingly, I move that the Commission deny Mrs. Weaver's renewed request to continue the April 13, 2006 hearing and dismiss this matter, without prejudice. Further, I move that Progress Energy's motion to Close the Docket be dismissed as moot based on this ruling.

PRESIDING Mitchell

Session: Regular

MOTION YES NO OTHER

Time of Session 2:30 PM

CLYBURN	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
FLEMING	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
HAMILTON	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
HOWARD	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
MITCHELL	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
MOSELEY	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
WRIGHT	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

APPROVED _____
 APPROVED STC 30 DAYS _____
 ACCEPTED FOR FILING _____
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 SUSPENDED _____
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 SET FOR HEARING _____
 ADVISED _____
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